VI. THE COMMISSION SHOULD NOT DECIDE NOW WHEN TO TERMINATE NTSC BROADCASTING

In the *Notice*, the Commission has questioned whether a fixed date for terminating NTSC broadcasting remains the best mechanism for speeding the transition to ATV.[44] In this regard, the *Notice* asks whether objective benchmarks such as the number of households that rely on NTSC broadcasting or the availability of inexpensive consumer equipment should be used to determine the length of the ATV transition period.[45]

EIA and the Committee submit that it is premature for the Commission to project *now* when or how NTSC broadcasting should be terminated *in the future*. As a general principle, the Commission should terminate NTSC only when there is no longer a substantial number of households which depend exclusively on NTSC for access to free, over-the-air broadcasting services. The Commission should not underestimate the role -- which is rivaled only by radio -- that television plays in providing news, information, and entertainment to the American public. More specifically, and perhaps more directly, the Commission should not put ATV at risk by prematurely terminating NTSC and creating an enormous societal and political backlash against ATV.

Although EIA and the Committee anticipate that ATV receivers will be very popular at a very early stage of the transition process, ATV will take time to establish itself in the marketplace. Even after ATV broadcasting is widespread and substantial numbers of consumers own ATV receivers, there will remain a large embedded base of NTSC products.

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[44] *See id.* ¶ 54.

[45] *See id.* ¶ 53.

In this regard, three points merit the Commission's serious consideration. First, consumer electronics products have a long useful life. Consumers expect to use them for an extended period of time. Second, many consumers own multiple TVs, VCRs, and peripheral video devices. Not all of these devices will be replaced at the same time or with the acquisition of the first ATV receiver. Third, low income households, least able to afford new consumer products, arguably depend the most on the longevity of the products they buy. The public interest would not be served by disenfranchising these households.

The possible emergence of low-cost converter devices should ameliorate the impact of terminating NTSC, but any prediction as to when these devices will become ubiquitous is subject to substantial uncertainties.[46] Indeed, at this point, the Commission cannot reasonably assume whether or when such devices will resolve any of these transitional issues. The industry's experience with another technological development, the compact disc ("CD") player, should be instructive on this point. No one would dispute that the arrival of high-quality CD sound, together with user friendly CD players and discs, have quickly introduced home audio to a new dimension. CDs have caught on; they have displaced other technologies; and they have done so quickly. Yet, ten years ago, no one knew -- or could have accurately predicted -- how quickly CD technology would be adopted by the American public.

The Commission, however, can profitably address today the kinds of factors that it will consider at a later date, such as availability of low-cost digital converters and the amount

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[46] One factor that will affect the cost and availability of these devices is the development of a single standard for over-the-air broadcasting and cable transmission of ATV signals. A single standard will produce economies of scale for manufacturers, and thus reduce the cost of converter devices for consumers.

of ATV programming then available.[47] In this regard, the Commission's primary consideration should be the number of households which remain dependent on NTSC service. In other words, the Commission's decision to turn off NTSC should be based not on the number of homes that have ATV equipment, but rather on the number of homes that rely exclusively on over-the-air NTSC broadcasting.[48]

The Commission can also productively consider whether a national cutover to ATV or a market-by-market approach would best serve the public interest. A market-by-market approach has the advantage of accelerating the termination of NTSC in locations where its continuation no longer serves any economic or public purpose. Such an approach, however, could create significant distribution problems for manufacturers and retailers of consumer electronics equipment, and thus availability problems for consumers. It would also create problems for consumers who move from an NTSC-ATV market to an ATV-only market. A market-by-market approach would also deny consumers the benefits of the economies of scale which manufacturers would enjoy if there were a national cutover to ATV.

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[47] If the Commission does adopt specific measures for terminating NTSC transmission, the Commission should acknowledge that it is doing so on the basis of very little concrete information and that these measures will be reexamined when more information becomes available.

[48] *See Notice* ¶ 53; *see also* Reply Comments of EIA/ATV Committee, MM Docket No. 87-268, at 9 (Jan. 31, 1992).

VII. THE COMMISSION SHOULD PROMPTLY RECOVER AS MUCH CONTIGUOUS TELEVISION SPECTRUM AS POSSIBLE

In the *Notice*, the Commission has posed a number of questions regarding the recovery of spectrum used for NTSC, whether and how ATV licensees should be "repacked" once NTSC has been terminated, and how much contiguous spectrum might be recoverable.[49] These questions highlight the trade-off between the costs of transitioning to ATV and the value of the spectrum that will be recovered at the end of the transition. As a general principle, EIA and the Committee support the recovery of NTSC channels once the transition to ATV is complete, as well as the Commission's efforts to create contiguous blocks of recovered spectrum. Undoubtedly, many of the commenters -- including some of the Committee's members -- have already developed proposals regarding the use of this recovered spectrum for new and innovative services.

To facilitate the recovery of contiguous spectrum, the Commission should make clear to broadcast licensees that their NTSC spectrum is on "loan," pending their transition to ATV, and that their rights to this spectrum are limited. The Commission should also consider a number of economic incentives, as well as regulatory mechanisms, to speed the recovery of this spectrum. The relocation of 2 GHz microwave licensees to make way for Personal Communications Services ("PCS") should be instructive in this regard. There, a number of mechanisms are being employed. In the unlicensed PCS band, a consortium of device manufacturers plans to provide incumbents with comparable replacement facilities. In the licensed PCS band, new licensees have begun negotiations with incumbents to do the same. As

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[49] *See Notice* ¶¶ 57-60, 86-87.

a further inducement, the Commission has made its tax certificate program available to incumbents that relocate early in the process. If the Commission has the requisite authority, it may also wish to consider, as a further inducement to expedite the transition to ATV, requiring "rent" in the form of spectrum fees from broadcasters that continue to use NTSC spectrum beyond a certain point in the transition period.

EIA and the Committee urge the Commission, as it considers these issues, to keep in mind that a beneficial byproduct of the successful deployment of robust, HDTV-driven ATV service is the rapid recovery and use of NTSC spectrum for new and innovative services. Like ATV, these new services will become essential components of the National Information Infrastructure. EIA and the Committee therefore urge the Commission to recover as much continguous spectrum as promptly as possible upon the completion of the transition to ATV.

VIII. CONCLUSION

For all of the reasons set forth above and in their prior pleadings in this proceeding, EIA and the Committee urge the Commission to adopt rules that will promote the

ubiquitous availability of HDTV-driven ATV, relying to the maximum extent feasible on consumer choice and competitive marketplace forces.

Respectfully submitted,

ELECTRONIC INDUSTRIES ASSOCIATION
ADVANCED TELEVISION COMMITTEE

By: Peter F. McCloskey Jr.
Peter F. McCloskey
President
Electronic Industries Association

By: F. Jack Pluckhahn
F. Jack Pluckhahn
Chairman
Advanced Television Committee

2500 Wilson Boulevard
Arlington, Virginia 22201
(703) 907-7600

Of Counsel:

Joseph P. Markoski
Marc Berejka
Squire, Sanders & Dempsey
1201 Pennsylvania Avenue, N.W.
Post Office Box 407
Washington, D.C. 20044
(202) 626-6600

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EIA/ATV Committee Company Participants

Advanced Television Test Center
Alpha Industries, Inc.
AMP Inc.
AT&T
AVX Corporation
Belden
Bellcore
BMC Mask Operations
Bowman, Inc.
Cable Television Labs
Chaseman Enterprises International
Corning, Inc.
Echelon Corporation
Emerson Radio Corporation
Faxcast USA Inc.
Fiber Options, Inc.
G.P.S. Standard USA
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General Instrument Corp.
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Harris Corp.
HDTV Newsletter
Hitachi Home Electronics
Hughes Network Systems, Inc.
IBM Corporation
ITT Corporation
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Link International
Magnascreen Corp.
Matsushita Electric Corp.
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Mobile Video Products
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NEC Technologies, Inc.
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TRW, Inc.
University of Houston
Vidikron of America, Inc.
Watkins-Johnson Company
Wireworld by David Salz, Inc.
XLO Electric Company
Zenith Electronics Corporation